

## **RESPONSE**

### **I. Status of the Claims**

No claims have been cancelled. Claim 1 has been amended. New claims 4-10 have been added.

Claims 1-10 are therefore presently pending in the case.

### **II. Support for the Amended and Newly Added Claims**

Claim 1 has been amended to recite that the isolated nucleic acid molecule comprises the nucleotide sequence of SEQ ID NO:9. Support for this claim can be found throughout the specification as originally filed, with particular support being found at least in claim 1 as originally filed and in Section 5.1.

Claim 4 has been added to depend from claim 3, and recite that the isolated nucleic acid molecule comprises the nucleotide sequence of SEQ ID NO:11. Support for this claim can be found throughout the specification as originally filed, with particular support being found at least in Section 5.1.

Claims 5-8 have been added to specifically recite expression vectors comprising isolated nucleic acid molecules of the present invention. Support for these claims can be found throughout the specification as originally filed, with particular support being found at least at page 11, lines 5-11.

Claims 9 and 10 have been added to specifically recite host cells comprising the expression vectors of claims 5 and 7, respectively. Support for these claims can be found throughout the specification as originally filed, with particular support being found at least at page 11, lines 11-17.

It will be understood that no new matter is included within the amended or newly added claims.

### **III. Rejection of Claim 1 Under 35 U.S.C. § 112, First Paragraph**

The Action first rejects claim 1 under 35 U.S.C. § 112, first paragraph, as allegedly not providing enablement for the full scope of the claimed invention comprising a genus of at least 24 contiguous nucleotides of SEQ ID NO:9. While Applicants in no way agree that the present application does not provide enablement for nucleotide sequences comprising at least 24 contiguous nucleotides from SEQ ID NO:9, as claim 1 currently recites only nucleic acid molecules comprising the

nucleotide sequence of SEQ ID NO:9, which the Examiner admits is enabled (Action at page 2), the present rejection of claim 1 under 35 U.S.C. § 112, first paragraph, has been rendered moot. Applicants therefore respectfully request that the rejection of claim 1 under 35 U.S.C. § 112, first paragraph, be withdrawn.

**IV. Rejection of Claim 1 Under 35 U.S.C. § 112, First Paragraph**

The Action next rejects claim 1 under 35 U.S.C. § 112, first paragraph, as allegedly containing subject matter that was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention. Again, while Applicants in no way agree that the present application does not provide sufficient written description for nucleotide sequences comprising at least 24 contiguous nucleotides from SEQ ID NO:9, as claim 1 currently recites only nucleic acid molecules comprising the nucleotide sequence of SEQ ID NO:9, which the Action admits is disclosed in the specification (Action at page 4), the present rejection of claim 1 under 35 U.S.C. § 112, first paragraph, has been rendered moot. Applicants therefore respectfully request that the rejection of claim 1 under 35 U.S.C. § 112, first paragraph, be withdrawn.

**V. Rejection of Claim 1 Under 35 U.S.C. § 112, Second Paragraph**

The Action next rejects claim 1 under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the invention.

The Action rejects claim 1 as allegedly indefinite based on the term “first disclosed in the NHP polynucleotide described in SEQ ID NO:9”. However, while Applicants submit that the term is sufficiently definite, solely in order to progress the case more rapidly toward allowance the claim has been revised to recite “the nucleotide sequence of SEQ ID NO:9”, and thus removes the term “first disclosed in” and the abbreviation “NHP”. Applicants submit that the revised claim is sufficiently clear to the skilled artisan, and complies even more fully with the requirements of 35 U.S.C. § 112, second paragraph.

Applicants submit that the rejection of claim 1 under 35 U.S.C. § 112, second paragraph, has been overcome, and respectfully request withdrawal of this rejection.

**VI. Rejection of Claim 1 Under 35 U.S.C. § 102(b)**


The Action next rejects claim 1 under 35 U.S.C. § 102(b), as allegedly anticipated by Hillier *et al.* (EST Database Accession No. AA626859; "Hillier"). While Applicants do not necessarily agree with the present rejection, as claim 1 has been amended to recite the complete nucleotide sequence of SEQ ID NO:9, which is neither taught nor suggested by Hillier, Applicants submit that the rejection of claim 1 under 35 U.S.C. § 102(b) has been overcome, and respectfully request withdrawal of the rejection.

**VII. Conclusion**

The present document is a full and complete response to the Action. In conclusion, Applicants submit that, in light of the foregoing remarks, the present case is in condition for allowance, and such favorable action is respectfully requested. Should Examiner Monshipouri have any questions or comments, or believe that certain amendments of the claims might serve to improve their clarity, a telephone call to the undersigned Applicants' representative is earnestly solicited.

Respectfully submitted,

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Date



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